

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ORTHO SOLUTIONS, LC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:20-CV-01405-JAR
)	
KI BEOM KIM,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff Ortho Solutions, LC's ("Ortho Solutions") Motion to Consolidate. (Doc. 12). Ortho Solutions seeks a declaratory judgment of patent inventorship for an orthodontic device and further that it has not committed fraud or been unjustly enriched. (Doc. 1). Ortho Solutions moves to consolidate this case with *Kim v. Dyna Flex, Ltd.*, Case No. 4:20-CV-01753-JAR ("*Kim I*"), also before this Court. In *Kim II*, which concerns the same underlying facts, Defendant Ki Beom Kim ("Dr. Kim") alleges that Ortho Solutions committed fraud and was unjustly enriched in the course of patenting the orthodontic invention.

Ortho Solutions argues that consolidation would conserve judicial resources and not be prejudicial to the parties because both cases involve the same underlying patents and key issues. Dr. Kim filed a motion to remand in *Kim II* contending that this Court lacks subject matter jurisdiction over the case. In response to the instant motion, Dr. Kim consents to consolidation if the motion to remand in *Kim II* is denied. (Doc. 18). The motion to remand in *Kim II* has since been denied. (*Kim II*, Doc. 32).

This Court has broad discretion to order consolidation. *Enter. Bank v. Saettle*, 211 F.3d 233, 235 (8th Cir. 1994). After extensive consideration, this Court agrees with Ortho Solutions

that consolidation pursuant to Fed. R. Civ. P. 42(a)(2) is appropriate. The cases involve common questions of law and fact regarding the invention at issue and surrounding circumstances. Both cases are at early stages procedurally, and consolidation will promote judicial economy without causing any confusion, inconvenience, or unfair prejudice to either party. *EEOC v. HBE Corp.*, 135 F.3d 543, 551 (8th Cir. 1998).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Ortho Solutions, LC's Motion to Consolidate (Doc. 12) is **GRANTED**. The parties are directed to submit filings in the above-captioned case.

IT IS FURTHER ORDERED that the Clerk of Court is directed to administratively close *Kim v. Dyna Flex, Ltd.*, Case No. 4:20-CV-01753-JAR.

Dated this 15th day of March, 2021.

A handwritten signature in black ink, reading "John A. Ross". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

JOHN A. ROSS
UNITED STATES DISTRICT JUDGE